

§ 22.215

(ii) Terms and conditions of the award. For example, some program statutes require a specific level of cost sharing or matching.

(b) The grants officer shall ensure that the award of DoD appropriations through a grant or cooperative agreement for a research project meets the standards of 10 U.S.C. 2358, DoD's broad authority to carry out research, even if the research project is authorized under a statutory authority other than 10 U.S.C. 2358. The standards of 10 U.S.C. 2358 are that, in the opinion of the Head of the DoD Component or his or her designee, the projects must be:

(1) Necessary to the responsibilities of the DoD Component.

(2) Related to weapons systems and other military needs or of potential interest to the DoD Component.

§ 22.215 Distinguishing grants and cooperative agreements.

(a) Once a grants officer judges, in accordance with §§ 22.205 and 22.210, that either a grant or cooperative agreement is the appropriate instrument, the grants officer shall distinguish between the two instruments as follows:

(1) Grants shall be used when the grants officer judges that substantial involvement is not expected between the Department of Defense and the recipient when carrying out the activity contemplated in the agreement.

(2) Cooperative agreements shall be used when the grants officer judges that substantial involvement is expected. The grants officer should document the nature of the substantial involvement that led to selection of a cooperative agreement. Under no circumstances are cooperative agreements to be used solely to obtain the stricter controls typical of a contract.

(b) In judging whether substantial involvement is expected, grants officers should recognize that "substantial involvement" is a relative, rather than an absolute, concept, and that it is primarily based on programmatic factors, rather than requirements for grant or cooperative agreement award or administration. For example, substantial involvement may include collaboration, participation, or intervention in

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the program or activity to be performed under the award.

§ 22.220 Exemptions.

Under 31 U.S.C. 6307, "the Director of the Office of Management and Budget may exempt an agency transaction or program" from the requirements of 31 U.S.C. chapter 63. Grants officers shall request such exemptions only in exceptional circumstances. Each request shall specify for which individual transaction or program the exemption is sought; the reasons for requesting an exemption; the anticipated consequences if the exemption is not granted; and the implications for other agency transactions and programs if the exemption is granted. The procedures for requesting exemptions shall be:

(a) In cases where 31 U.S.C. chapter 63 would require use of a contract and an exemption from that requirement is desired:

(1) The grants officer shall submit a request for exemption, through appropriate channels established by his or her DoD Component (see 32 CFR 21.115(b)(1)), to the Director of Defense Procurement (DDP).

(2) The DDP, after coordination with the Director of Defense Research and Engineering (DDR&E), shall transmit the request to OMB or notify the DoD Component that the request has been disapproved.

(b) In other cases, the DoD Component shall submit a request for the exemption through appropriate channels to the DDR&E. The DDR&E shall transmit the request to OMB or notify the DoD Component that the request has been disapproved.

(c) Where an exemption is granted, documentation of the approval shall be maintained in the award file.

Subpart C—Competition

§ 22.300 Purpose.

This subpart establishes DoD policy and implements statutes related to the use of competitive procedures in the award of grants and cooperative agreements.